

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Augusta, Maine
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~~the judicial officer, unless the judicial officer determines that the release will not reasonably ensure the appearance of the defendant as required or will not otherwise reasonably ensure the integrity of the judicial process. Before any defendant is released on personal recognizance or an unsecured appearance bond, the judicial officer must determine that the defendant will appear as required and that the defendant's release will not otherwise affect the integrity of the judicial process.~~

~~The judicial officer may not order the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond on new criminal conduct if the defendant has pending criminal charges.~~

~~In determining whether the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond is appropriate, the judicial officer shall consider:~~

~~A. The defendant's prior criminal history, including, but not limited to, whether the defendant has previously violated conditions of release, whether the defendant has been or is on probation and whether the defendant has previously violated court orders, such as protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011;~~

~~B. The severity, nature and circumstances of the crime charged;~~

~~C. The defendant's failures to appear when required;~~

~~D. The defendant's failure to pay fines;~~

~~E. Any other factors that may enhance a sentence of incarceration; and~~

~~F. Any other factors that may be considered relevant to the judicial officer, including, but not limited to, those enumerated in subsection 4.~~

~~In considering all the factors enumerated in paragraphs A to F, the judicial officer shall give the greatest weight to the defendant's criminal history and the severity of the crime. The judicial officer may not order the defendant released on personal recognizance or an unsecured appearance bond if the defendant's crime is serious or the judicial officer finds the defendant's criminal record inappropriate for granting the defendant release on personal recognizance or an unsecured appearance bond.~~

Sec. 4. 15 MRSA §1028, sub-§1, ¶A, as amended by PL 1997, c. 543, §10, is further amended to read:

A. If the defendant chooses to have a de novo determination of bail, the defendant must be furnished with a petition and, upon execution of the petition and without the issuance of any writ or other process, the sheriff of the county in which the decision was made shall provide for the transportation of the defendant together with the petition and all papers relevant to the petition or copies of the petition or papers to the Superior Court.

If no Justice of the Superior Court will be available within 24 48 hours, excluding Saturdays, Sundays and holidays, arrangements must be made for a de novo determination of bail in the nearest county in which a Justice of the Superior Court is then sitting. The defendant's custodian shall provide transportation to the Superior Court as required by this chapter without the issuance of any writ or other process.

If there is no Justice of the Superior Court available, the defendant must be retained in custody until the petition can be considered.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 9, 1998.

CHAPTER 586

S.P. 690 - L.D. 1925

An Act to Make Additional Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Year Ending June 30, 1998

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of the Public Utilities Commission will become due and payable prior to the expiration of the 90-day period; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §931, sub-§1, ¶J, as repealed and replaced by PL 1987, c. 631, §2, is amended to read:

J. Staff attorney, financial analyst, chief utility accountant, utility accountant III; and assistant administrative director; ~~administrative assistant to the administrative director and assistant to the director of consumer assistance~~ positions at the Public Utilities Commission;

Sec. 2. 35-A MRSA §107, sub-§2, ¶A, as amended by PL 1987, c. 631, §3, is further amended to read:

A. The general counsel, the administrative director, the assistant administrative director, ~~the administrative assistant to the administrative director~~, the director of finance, the director of technical analysis; and the director of consumer assistance ~~and the assistant to the director of consumer assistance shall~~ serve at the pleasure of the commission and their salaries ~~shall~~ must be set by the commission within the ranges established by Title 2, section 6-A.

Sec. 3. 35-A MRSA §107, sub-§2, ¶C, as amended by PL 1993, c. 118, §2, is further amended to read:

C. The salaries of the other subordinate officials and employees of the commission, other than those of the general counsel, the administrative director, the assistant administrative director, ~~the administrative assistant to the administrative director~~, the director of finance, the director of technical analysis, the director of consumer assistance, ~~the assistant to the director of consumer assistance~~ and the staff attorney and utility analyst positions, are subject to the Civil Service Law.

Sec. 4. 35-A MRSA §116, sub-§4, as amended by PL 1993, c. 118, §4, is further amended to read:

4. Use of funds. The Public Utilities Commission may use the revenues provided in accordance with this section to fund ~~69~~ 65 employees and to defray the costs incurred by the commission pursuant to this Title, including administrative expenses, general regulatory expenses, consulting fees and all other reasonable costs incurred to administer this Title.

Sec. 5. Fiscal year 1997-98 assessment. Notwithstanding the Maine Revised Statutes, Title 35-A, section 116, the Public Utilities Commission may assess upon all regulated utilities in the 1997-98

fiscal year an additional \$635,000, which is the amount the assessment for the 1997-98 fiscal year was reduced by the Public Utilities Commission as a result of surplus carried forward from the 1995-96 fiscal year.

Sec. 6. One-time exception. Notwithstanding the Maine Revised Statutes, Title 35-A, section 116, subsection 5, the Public Utilities Commission may expend in fiscal year 1998-99, for the purposes specified in Title 35-A, section 116, subsection 4, 100% of any unexpended funds remaining at the end of the 1997-98 fiscal year. Treatment of funds not expended at the end of the 1998-99 fiscal year are governed by Title 35-A, section 116, subsection 5.

Sec. 7. Allocation of Public Utilities Commission Regulatory Fund. The Public Utilities Commission Regulatory Fund must be allocated as designated in the following schedule.

1997-98

**PUBLIC UTILITIES
COMMISSION**

**Regulatory Fund - Public
Utilities Commission**

Positions - Legislative Count	(-4,000)
Personal Services	(\$250,000)
All Other	1,254,000
Deallocates salary savings from the elimination of the Administrative Assistant to the Administrative Director position, a Word Process Operator position, the Assistant to the Director of Consumer Assistance position and the Administrative Secretary position and savings from 3 unfilled positions and increases funding for additional consulting costs related to the implementation of both federal and state legislative requirements involving the electric, telecommunications and gas utility industries.	

**PUBLIC UTILITIES
COMMISSION
TOTAL**

\$1,004,000

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 9, 1998.

CHAPTER 587

H.P. 1427 - L.D. 1991

An Act Regarding the Role of the State Planning Office and the Land and Water Resources Council

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §3331, sub-§3, as enacted by PL 1993, c. 721, Pt. C, §1 and affected by Pt. H, §1, is repealed.

Sec. 2. 22 MRSA §2660-A, sub-§3, as enacted by PL 1987, c. 531, §1, is amended to read:

3. Appeal. The Commissioner of Human Services, after consultation with the Public Utilities Commission, ~~and the State Geologist and the State Planning Office,~~ may authorize transport of water for commercial purposes if the commissioner finds that: Transport of the water will not constitute a threat to public health, safety or welfare; that the water is not available naturally in the location to which it will be transported; and that failure to authorize transport of the water would create a substantial hardship to the potential recipient of the water. Any authorization under this subsection ~~shall~~ **must** be for a period not to exceed 3 years, but may be renewed subject to the same criteria.

See title page for effective date.

CHAPTER 588

S.P. 770 - L.D. 2071

An Act Regarding Contract Procedures

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §20005, sub-§6, as amended by PL 1995, c. 560, Pt. L, §5 and affected by §16, is further amended to read:

6. Contracts and licensing. Through the director:

A. Administer all contracts with community service providers for the delivery of alcohol and drug abuse services; and

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers, and community-based service providers pursuant to section 20024 and subchapter V.

The commissioner may delegate contract and licensing duties under this subsection to the Department of Human Services, the Department of Corrections or other divisions of the department as long as that delegation ensures that contracting for alcohol and other drug abuse services provided in community settings are consolidated within the Department of Human Services, that contracting for alcohol and other drug abuse services delivered within correctional facilities are consolidated within the Department of Corrections and that contracting for alcohol and other drug abuse services delivered within mental health and mental retardation facilities are consolidated within the department.

The commissioner may not delegate contract and licensing duties if that delegation results in increased administrative costs.

The commissioner may not issue requests for proposals for existing contract services until the commissioner has adopted rules in accordance with the Maine Administrative Procedure Act to ensure that the reasons for which existing services are placed out for bid and the performance standards and manner in which compliance is evaluated are specified and that any change in provider is accomplished in a manner that fully protects the consumer of services.

~~Any new contract must be awarded through a request for proposal procedure and 1/3 of the contracts of \$100,000 per year or more that are renewed must be awarded through a request for proposal procedure at least every 2 years.~~

The commissioner shall establish a procedure to obtain assistance and advice from consumers of alcohol and other drug abuse services regarding the selection of contractors when requests for proposals are issued;

See title page for effective date.